



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

July 16, 2009

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich
William T. Fujioka
From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains an update on the pursuit of County positions on climate change legislation.

Pursuit of County Positions on Climate Change Legislation

Energy Efficiency/Renewables

AB 46 (Blakeslee), as amended on July 15, 2009, would extend the operation of the State Energy Conservation Assistance Account and the Local Jurisdiction Energy Assistance Account from January 1, 2011 to January 1, 2016 to continue to provide financial assistance through loans and/or grants to local governments, schools, and hospitals to improve their energy efficiency. It would also delete the member of the California Energy Commission from the State Assistance Fund for Enterprise, Business, and Industrial Development Corporation, which administers several State and Federal loan and loan guarantee programs for small businesses.

The Department of Public Works (DPW) indicates that the State Energy Conservation Assistance Account receives continuous appropriations and the Local Jurisdiction Energy Assistance Account has an appropriation of \$40.5 million from designated petroleum violations escrow funds. DPW notes that the proposed extension provided in AB 46 could provide financial assistance for the department's energy-related projects.

"To Enrich Lives Through Effective And Caring Service"

*Please Conserve Paper – This Document and Copies are Two-Sided
Intra-County Correspondence Sent Electronically Only*

In April 2009, DPW identified 30 energy-saving related projects and estimated that implementation and construction of the projects would cost \$173 million.

The Internal Services Department (ISD) indicates that AB 46 provides grants and loans that the department uses to reduce energy costs for all of its customer departments and ISD, and that both will benefit from the bill's extension of the existing grants and loans for local government energy projects. The Department of Regional Planning (DRP) indicates that the Local Jurisdiction Energy Assistance Account has funded over 600 energy efficiency projects since its inception as a result from Federal lawsuits against oil companies for overcharging and that this bill would have a positive effect on the environment.

The Departments of Public Works, Internal Services, Regional Planning, and this office support AB 46. Support is consistent with existing policy to: 1) provide funding for local government energy efficiency programs; and 2) support increased funding to public agencies to encourage reduced energy consumption, develop alternative energy sources, and shift usage to non-peak hours. **Therefore, the Sacramento advocates will support AB 46.**

AB 46 is supported by the California Hospital Association, City of San Jose, and the South Coast Air Quality Management District. There is no registered opposition. This measure is currently in the Senate Appropriations Committee awaiting a hearing date.

AB 64 (Krekorian and Bass), as amended on June 23, 2009, would recast the Renewables Portfolio Standard (RPS) Program to require that a retail seller and a local publicly owned electric utility obtain at least 23 percent of its electricity from renewable energy resources by December 31, 2014, increasing to 27 percent by December 31, 2017, and 33 percent by December 31, 2020, and would also establish the Renewable Infrastructure Authority and related fund and provide for renewable energy designation zones and transmission corridor zones. Under existing law, local publicly owned electric utilities are not required to meet the increased renewable energy requirements.

The existing RPS Program imposes various duties and responsibilities on the Public Utilities Commission (PUC) regarding the purchase of electricity and requires the PUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation. The existing requirement to increase procurement from eligible renewable energy resources by at least 1 percent of their sales annually until they reach 20 percent by 2010 applies to retail sellers of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not to local publicly owned electric utilities.

In addition to increasing the percentages of electricity required to come from renewable energy resources for retailer sellers and making the RPS mandates apply to publicly owned utilities, AB 64 would also: 1) make electricity from an out-of-state renewable facility ineligible to count toward RPS unless the electricity is scheduled into California simultaneous to its seller's retail generation; 2) require the PUC to establish a cost cap of 5 percent for total above-market costs expended by each industry operated utility; 3) allow the retail seller to limit renewable procurement to renewable resources that can be procured below the benchmark price if the 5 percent cost cap is exceeded; and 4) establish the Energy Planning and Infrastructure Coordinating Committee and require it to develop a strategic plan to achieve RPS targets.

Furthermore, AB 64 would: 1) grant the California Energy Commission the exclusive authority to certify eligible renewable resources with a generating capacity of 5 megawatts or more; 2) require the PUC, for an application to construct or modify transmission lines intended for generation from eligible renewable resources, to employ resources sufficient to produce a decision within 12 months of receiving a complete application; 3) declare that a facility engaged in the combustion of municipal solid waste is not an eligible renewable energy resource, unless it is located in Stanislaus County and was operational prior to September 26, 1996; and 4) declare that a facility engaged in the conversion of municipal solid waste using a non-combustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity is an eligible renewable energy resource only if it meets specified conditions.

In order for a facility engaged in the conversion of municipal solid waste to a clean-burning fuel for generating electricity to qualify as an eligible renewable energy resources, its technology must meet all of the following conditions: does not use air or oxygen in the conversion process, except ambient air to maintain temperature control; produces no discharges of air contaminants or emissions, including greenhouse gas emissions; produces no discharges to surface waters or ground waters of the State; produces no hazardous wastes; must remove all recyclable and green waste compostable materials from the solid waste stream prior to the conversion process, to the maximum extent feasible.

In addition to the requirements above, the facility, in order to qualify as an eligible renewable energy resources, must also be in compliance with all applicable laws, regulations, and ordinances, certify that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting, and the owner or operator of the facility must certify that those materials will be recycled or composted and meets any other conditions established by the PUC. Under AB 64, local agency means any city, county,

or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

The Department of Regional Planning indicates that the intent of AB 64 is to accelerate the siting of both generation and transmission needed to meet the RPS and to appropriately recognize the value of renewable generation. The siting of the potential locations for renewable energy generation would be studied to minimize adverse impacts. The current market price reference methodology would be replaced with a benchmark price. DRP indicates that local agencies such as the County would still have the authority to regulate the siting of transmission lines and renewable power generation of less than 5 megawatts, but would lose control over the siting of most commercial renewable energy generation. DRP states that AB 64 would likely result in higher retail energy rates and less control in the siting of renewable commercial power plants.

The Internal Services Department manages the County's Utilities Budget for most departments and indicates that the use of renewable resources does increase the cost of that budget. The electricity portion of the County's Utilities Budget is approximately \$100 million per year. However, ISD expects the increase to the utility budget due to the increasing percentage requirement for renewable power to be very small as the costs for renewable power continue to decrease. ISD acknowledges that the analysis of estimated cost increases is further complicated by the requirement of the PUC to re-do the market price reference for renewable power which limits the amount of above-market purchases utilities can make to hit these targets.

The Department of Public Works indicates that despite the bill's positive intent to increase the amount of electricity from renewable resources, AB 64 would reinforce existing State laws that limit the development of conversion technology facilities, which convert residual solid waste into marketable products, including alternative fuels and renewable electricity. DPW states that the County is spearheading the development of one or more conversion technology demonstration projects that showcase the technical, environmental, and economic viability of conversion technologies to effectively manage our solid waste stream.

The Department of Public Works indicates that AB 64 would restrict the development of conversion technology facilities by placing a number of restrictions on conversion facilities to be eligible as a renewable energy resource. The bill requires solid waste conversion to meet standards that are impossible to achieve, including zero air emissions, zero water discharges, and a prohibition on the use of air or oxygen in the process. DPW states that these restrictions will reduce the County's capabilities to

comply with AB 939, which could subject the County to penalties of up to \$10,000 per day.

The Department of Public Works and this office oppose AB 64 unless amended to delete the provisions of the bill that discourage the development of conversion technologies. Opposition is consistent with existing policy to support legislation which promotes the development of alternatives to landfills such as conversion technologies, that protects public health and safety and the environment; establishes a viable permitting process for these alternatives based on performance standards rather than prescriptive definitions; and provides full diversion credit for these alternatives under the California Integrated Waste Management Act. **Therefore, the Sacramento advocates will oppose AB 64 unless amended to remove the provisions that discourage the development of conversion technologies.**

The City of Los Angeles Department of Water and Power, the Natural Resources Defense Council, the Planning and Conservation League, and the Union of Concerned Scientists support AB 64 if amended. The California Farm Bureau Federation, California Public Utility Commission, California State Association of Electrical Workers, California State Pipe Trades Council, Imperial Irrigation District, Pacific Gas & Electric, Southern California Edison, and Western States Petroleum Association oppose AB 64 unless amended. This measure is currently at the Senate Desk awaiting referral to a policy committee.

Water Quality, Supply, and Conservation

AB 49 (Feuer), as amended on July 9, 2009, would state the intent of the Legislature to enact legislation to establish a 20 percent water efficiency requirement for the year 2020 for agricultural and urban water users.

The Department of Regional Planning indicates that the County Draft General Plan, tentatively scheduled to be adopted in 2010, calls for maximizing conservation of water resources throughout the County and ensuring there is a guaranteed supply of water for the County even during Statewide drought periods. The State is currently experiencing an acute shortage of water supply and many cities and counties in Southern California have begun implementing mandatory conservation measures.

In addition, without specified set-aside conservation plans and best management practices in place and implemented, DRP indicates the County will not be able to rely on a sufficient water supply to sustain itself, particularly during drought periods. Ensuring that the County's share of the State's water supply remains adequate for its needs requires cooperative planning and implementation of conservation measures among the

agricultural and urban water suppliers throughout the State. DRP indicates that AB 49 will help the County better plan and coordinate on water management strategies for the unincorporated areas.

The Department of Public Works anticipates that AB 49 will establish the water use targets on a per capita basis for each of the County Waterworks Districts and will require the urban water management plans for the Waterworks Districts to include an analysis of the progress the Districts are making towards meeting these targets. DPW indicates that the bill would help the Department meet the County's water conservation goals.

The Internal Services Department indicates that it could be impacted if the bill is amended to add prior language regarding water management plans to include programs for assisting local governments in reducing water use. ISD further indicates that retail water suppliers are currently responsible for developing these programs and reporting progress.

The Departments of Regional Planning and Public Works and this office support AB 49 in concept. Support is consistent with existing policy to: 1) support legislation to encourage water conservation and increase the efficiency of water use; and 2) promote local water reliability and water conservation. **Therefore, the Sacramento advocates will support in concept AB 49.**

AB 49 is sponsored by the Natural Resources Defense Council. Support and opposition to the July 9, 2009 version is unknown. This measure is currently pending a vote on the Senate Floor.

AB 300 (Caballero), as amended on June 30, 2009, would: 1) require project applicants for the subdivision or development to identify and implement "voluntary water demand management measures" to reduce the net increase in water demand associated with the development or subdivision as an alternative to acquiring new water supplies; 2) require the voluntary demand management measures to result in water conservation that exceeds the projected efforts and levels of conservation identified in the public water system's urban water management plan; 3) allow the demand management measures to include permanent fixtures that reduce water demand or fees deposited with the public water system to fund water conservation efforts; and 4) allow the fees collected to be used to offset the normal capacity fees assessed to a new development by the public water system.

In addition, AB 300 would: 1) authorize the public water system to assess additional fees to analyze the impact of the demand management measures and require the public water system to include an analysis of the effectiveness of the demand management measures in its urban water management plan; 2) authorize the public water system to enforce the demand management measures on all occupants of the subdivision or development for 20 years if the public system bases its determination of a sufficient water supply on the implementation of the demand management measures; 2) require all fees collected to implement the demand management measures to be expended within two years of the sale of the last unit of the subdivision or development; and 4) require at least 40 percent of the funds collected to be spent in disadvantaged communities within the public water system's service area.

The bill defines voluntary water demand management measures as water use efficiency measures that are permanently fixed to residential, commercial, industrial, or other real property that will reduce the subdivision's water demand below the applicable statutory, regulatory, and local ordinance requirements for water conservation. It would allow voluntary mitigation measures to include water conservation offsets that minimize a percentage of a project's impact on the public water system, as determined by the applicant and agreed upon by the public water system. Water savings projections attributable to voluntary demand management measures must be contained in the written verification and be verified for accuracy by the public water system, or, if there is no public water system, the local agency.

The projected water savings must be calculated using either water efficiency program data compiled or maintained by the public water system or water savings projections adopted by the California Urban Water Conservation Council. The public water system, five years after the project has been fully developed, must include in its next urban water management plan a report on the monitoring and compliance of voluntary water demand management measures and determine whether they have resulted in the water savings necessary to achieve the agreed upon water demand offsets. AB 300 would sunset in 2017.

The Department of Regional Planning indicates that AB 300 will not have a significant impact on the department because much of the verification responsibility falls onto the local water system or applicant. However, DRP is supportive of the water conservation efforts included in the bill and recognize the need to incorporate more water efficient technologies into new developments.

The Department of Public Works is also supportive of the water conservation efforts included in AB 300, but indicates that the bill lacks a financial mechanism for the public water system to fund the enforcement of the demand management measures

implemented by the project applicant. In addition, DPW indicates that the bill does not clearly define the enforcement powers that the public water supplier would have to curtail water demand if the voluntary demand management measures are not met. Therefore, DPW states the bill should be amended to allow the public water system to collect sufficient fees from the applicant to monitor and enforce, if necessary, the voluntary demand management measures for the subdivision and the covenants running the land for each lot within the projects, and allow the public water supplier to enforce the voluntary demand measures consistent with their existing authorities, including but not limited to, curtailment or termination of water service.

The Departments of Public Works and Regional Planning and this office recommend that the County support AB 300 if amended as indicated above. Support is consistent with existing policy to: 1) support legislation to encourage water conservation and increase the efficiency of water use; and 2) promote local water reliability and water conservation. **Therefore, the Sacramento advocates will support AB 300 if amended as indicated above.**

AB 300 is supported by the California Building Industry Association, California Chamber of Commerce, California Business Properties Association, California Manufacturing and Technology Association, American Council of Engineering Companies California, and Associated General Contractors. It is opposed by: Clean Water Action, Defenders of Wildlife, East Bay Municipal Utility District, Heal the Bay, Planning and Conservation League, Sierra Club and Environment California. This measure is currently in the Senate Natural Resources and Water Committee awaiting a hearing date.

Hazardous/Solid Waste Management and Reduction

SB 25 (Padilla), as amended on May 28, 2009, would: 1) increase the mandatory solid waste diversion rate from 50 percent to 60 percent by January 1, 2015, and establish a 75 percent Statewide waste reduction target by January 1, 2020; 2) mandate commercial recycling by 2012 for counties with a population over 200,000; 3) require the owner or operator of a business that contracts for waste services and generates more than four cubic yards of total waste and recyclable materials per week, to arrange for recycling services; 4) increase the State solid waste tipping fee from \$1.40 to \$2.13 with adjustments in the future for cost of living changes; 5) and authorize the California Integrated Waste Management Board to create a grant program to assist local government with illegal dumping.

The Department of Public Works indicates that SB 25 would increase the mandatory diversion rate and significantly increase costs to local governments. DPW indicates that the bill would increase the likelihood that the County and many cities in Los Angeles County will be subject to a fine of up to \$10,000 per day for failing to meet the State's increased waste reduction mandates, since the most cost effective and large impact waste reduction and recycling programs have already been implemented. DRP indicates that SB 25 constitutes an unfunded mandate by requiring the County to draft a commercial recycling ordinance by 2012 at our expense that is intended to meet the State's goals on recycling rather than a plan that sets the County's own goals with the available tools at its disposal.

The Departments of Public Works and Regional Planning and this office oppose SB 25. Opposition is consistent with existing policy to: 1) oppose AB 1390 (Huffman) of 2008, which is a similar bill; 2) support greater flexibility in meeting the State's waste reduction mandate; and 3) support greater emphasis on program implementation rather than quantification of waste diversion. **Therefore, the Sacramento advocates will oppose SB 25.**

SB 25 is supported by Californians Against Waste and the Sierra Club. It is opposed by a host of entities, including the California Chamber of Commerce, California Grocers Association, California Taxpayers' Association, California State Association of Counties, Orange County Board of Supervisors, League of California Cities, Sanitation Districts of Los Angeles County, Regional Council of Rural Counties, and the Solid Waste Association of North America. SB 25 is currently in the Assembly Natural Resources Committee awaiting a hearing date.

AB 479 (Chesbro), as amended on July 1, 2009, would: 1) increase the mandatory solid waste diversion rate from 50 percent to 75 percent by January 1, 2020; 2) require the owner or operator of a business that contracts for waste services and generates more than four cubic yards of total waste and recyclable materials per week, to arrange for recycling services; and 3) require enforcement agencies to inform solid waste facility operators that it is requiring a revision in the solid waste facility permit in conjunction with allowing changes in the design or operation of a facility, if the enforcement agency determines that the proposed change meets specified requirements.

The Department of Public Works indicates that AB 479 would increase the mandatory diversion rate and significantly increase costs to local governments. DPW indicates that the bill would increase the likelihood that the County and many cities in Los Angeles County will be subject to a fine of up to \$10,000 per day for failing to meet the State's increased waste reduction mandates, since the most cost effective and large impact waste reduction and recycling programs have already been implemented.

Each Supervisor
July 16, 2009
Page 10

The Department of Public Works and this office oppose AB 479. Opposition is consistent with existing policy to: 1) oppose AB 1390 (Huffman) of 2008, which is a similar bill; 2) support greater flexibility in meeting the State's waste reduction mandate; and 3) support greater emphasis on program implementation rather than quantification of waste diversion. **Therefore, the Sacramento advocates will oppose AB 479.**

AB 479 is supported by the California Refuse Recycling Council, California Resource Recovery Association, Inland Empire Disposal Association, Los Angeles County Waste Management Association, and Solid Waste Association of Orange County. It is opposed by a host of entities, including: the California Chamber of Commerce, California Grocers Association, California Taxpayers' Association, California State Association of Counties, Orange County Board of Supervisors, League of California Cities, Sanitation Districts of Los Angeles County, Regional Council of Rural Counties, and the Solid Waste Association of North America. AB 479 is currently in the Senate Appropriations Committee awaiting a hearing date.

We will continue to keep you advised.

WTF:RA
MR:EW:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants